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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/611,606      | 07/01/2003  | Darell Wayne Musser  | 0497-01UA           | 8424             |

21704 7590 06/29/2005

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| EXAMINER |
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SAFARI, MICHAEL

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| ART UNIT | PAPER NUMBER |
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3673

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/611,606

**Applicant(s)**

MUSSEY, DARELL WAYNE

**Examiner**

M. Safavi

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/01/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Information Disclosure Statement***

The information disclosure statement filed July 01, 2003 fails to comply fully with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because Applicant has not provided a date of publication for the references listed under 'Other Documents'. It has been placed in the application file, but the information referred to therein, with respect to those references listed under 'Other Documents', has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 does not appear to further limit the language of preceding claim 6 from which claim 7 depends. See 37 CFR 1.75 (c). Therefore, it is not clear as to what claim 7 defines.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahowski in view of either Gates or Shoemaker.

Dahowski discloses, Fig. 1, a disposable mold form 14, a tie wire 23 having a head 26, an elongate midsection, and an end portion, the elongate midsection and the end portion being separated by a weakened portion in the form of a cut 23a, the tie wire being adapted to be positioned through the disposable form mold such that the head abuts the mold form, the elongate midsection extends through and at least partially out of the mold form, and the end portion extends over the bond beam, and a means for anchoring the end portion of the tie wire in the form of nail 24. Dahowski does not appear to disclose an elongate tube shaped to fit around the tie wire such that the elongate tube extends from the head to the vicinity of the weakened portion.

Shoemaker discloses, Figs. 1 and 11, a form tie system having tie 34 extending through forms 30/33 with a sleeve 18 fitting around the tie wire which sleeve extends to the vicinity of a weakened portion 38/138. The tie is ruptured at the weakened portion for removal with the sleeve 18 allowing ease of removal of the tie member once sheared along the weakened portion. Shoemaker teaches plastic as a conventional material for the sleeve member, col. 5, lines 2-4.

Gates discloses, Figs. 1 and 3, a form tie system having tie 10 extending through forms 12 with a sleeve 40 fitting around the tie wire which sleeve extends to the vicinity of a weakened portion 36. The tie is ruptured at the weakened portion for removal with the sleeve 40 allowing ease of removal of the tie member once sheared along the weakened portion. Gates teaches plastic as a conventional material for the sleeve member, col. 1, line 47.

Therefore, to have provided the Dahowski form assembly with a sleeve for extending over the tie wire and through the disposable form mold with the sleeve extending to the vicinity of the weakened portion 23a, thus permitting ease of removal of the tie member once sheared along the weakened portion, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by either of Gates and Shoemaker.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL SAFAVI  
PRIMARY EXAMINER  
ART UNIT 354**

M. Safavi  
June 22, 2005